

EMBASSY OF THE
UNITED STATES OF AMERICA

No. 296

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs of the Arab Republic of Egypt and has the honor to refer to recent discussions between representatives of the Government of the United States of America and the Government of the Arab Republic of Egypt regarding the surrender of persons to the International Criminal Court:

Reaffirming the importance of bringing to justice those who commit genocide, crimes against humanity and war crimes,

Recalling that the Rome Statute of the International Criminal Court done at Rome on July 17, 1998 (Rome Statute) by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court is intended to complement and not supplant national criminal jurisdiction,

Confirming that nothing in this exchange of notes provides impunity with regard to genocide, crimes against humanity and war crimes, and

Bearing in mind Article 98 of the Rome Statute, and taking into consideration that both the Government of the United States of America and the Government of the Arab Republic of Egypt are not parties to the International Criminal Court,

Hereby proposes the following:

1. For purposes of this exchange of notes, "persons" of either Party include all nationals of that Party and, for the Government of the United States, also include current and former non-U.S. national U.S. military personnel with respect to acts or omissions allegedly committed or occurring while they are or were U.S. military personnel.

2. Persons of one Party present in the territory of the other shall not, absent the express consent of the first Party,

- (a) be surrendered or transferred by any means to the International Criminal Court for any purpose, or

(b) be surrendered or transferred by any means to any other entity or third country, or expelled to a third country, for the purpose of surrender to or transfer to the International Criminal Court.

3. When the United States extradites, surrenders, or otherwise transfers a person of the Arab Republic of Egypt to a third country, the United States will not agree to the surrender or transfer of that person to the International Criminal Court by the third country, absent the express consent of the Government of the Arab Republic of Egypt.

4. When the Government of the Arab Republic of Egypt extradites, surrenders, or otherwise transfers a person of the United States of America to a third country, the Government of the Arab Republic of Egypt will not agree to the surrender or transfer of that person to the International Criminal Court by a third country, absent the express consent of the Government of the United States.

5. This exchange of notes will be valid for the period of two years from the date of the note in reply and is renewable by mutual consent through an exchange of notes. In the event this exchange of notes is not renewed, its

provisions shall continue to apply to any act occurring, or any allegations arising, while this exchange of notes was in force.

6. If the proposal set forth herein is acceptable to the Government of the Arab Republic of Egypt, this note and the Ministry's affirmative note in reply shall constitute binding obligations under international law from the date of the Ministry's note in reply.

The Embassy of the United States of America avails itself of this opportunity to renew to the Ministry of Foreign Affairs of the Arab Republic of Egypt the assurances of its highest consideration.



Embassy of the United States of America

Cairo, February 26, 2003



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5/3/03

The Ministry of Foreign Affairs of the Arab Republic of Egypt presents its compliments to the Embassy of the United States of America in Cairo, and with reference to the Embassy's note no. 296 dated February 26, 2003 which reads as follows :

“ The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs of the Arab Republic of Egypt and has the honor to refer to recent discussions between representatives of the Government of the United States of America and the Government of the Arab Republic of Egypt regarding the surrender of persons to the International Criminal Court:

Reaffirming the importance of bringing to justice those who commit genocide, crimes against humanity and war crimes,

Recalling that the Rome Statute of the International Criminal Court done at Rome on July 17, 1998 (Rome Statute) by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court is intended to complement and not supplant national criminal jurisdiction,

Confirming that nothing in this exchange of notes provides impunity with regard to genocide, crimes against humanity and war crimes, and

Bearing in mind Article 98 of the Rome Statute, and taking into consideration that both the Government of the United States of America and the Government of the Arab Republic of Egypt are not parties to the International Criminal Court,

Hereby proposes the following:

1. For purposes of this exchange of notes, “persons” of either Party include all nationals of that Party and, for the Government of the United States, also include current and former non-U.S. national U.S. military personnel with respect to acts or omissions allegedly committed or occurring while they are or were U.S. military personnel.



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2. Persons of one Party present in the territory of the other shall not, absent the express consent of the first Party,

(a) be surrendered or transferred by any means to the International Criminal Court for any purpose, or

(b) be surrendered or transferred by any means to any other entity or third country, or expelled to a third country, for the purpose of surrender to or transfer to the International Criminal Court.

3. When the United States extradites, surrenders, or otherwise transfers a person of the Arab Republic of Egypt to a third country, the United States will not agree to the surrender or transfer of that person to the International Criminal Court by the third country, absent the express consent of the Government of the Arab Republic of Egypt.

4. When the Government of the Arab Republic of Egypt extradites, surrenders, or otherwise transfers a person of the United States of America to a third country, the Government of the Arab Republic of Egypt will not agree to the surrender or transfer of that person to the International Criminal Court by a third country, absent the express consent of the Government of the United States.

5. This exchange of notes will be valid for the period of two years from the date of the note in reply and is renewable by mutual consent through an exchange of notes. In the event this exchange of notes is not renewed, its provisions shall continue to apply to any act occurring, or any allegations arising, while this exchange of notes was in force.

6. If the proposal set forth herein is acceptable to the Government of the Arab Republic of Egypt, this note and the Ministry's affirmative note in reply shall constitute binding obligations under international law from the date of the Ministry's note in reply.



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The Embassy of the United States of America avails itself of this opportunity to renew to the Ministry of Foreign Affairs of the Arab Republic of Egypt the assurances of its highest consideration. "

The Ministry of Foreign Affairs of the Arab Republic of Egypt has the honor to inform the Embassy of the United States of America in Cairo that the Embassy's note and this reply of the Ministry of Foreign Affairs of the Arab Republic of Egypt constitute binding obligations under International Law.

The Ministry of Foreign Affairs of the Arab Republic of Egypt avails itself of this opportunity to renew to the Embassy of the United States of America the assurances of its highest consideration.

Cairo, March 5, 2003



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